REMARKS

Claims 1-16 are pending in the instant application. Claims 9 and 10 have been amended. Support for these amendments can be found in the specification at page 7, line 33, through page 8, line 23, page 42, lines 24-26, page 44, line 34, through page 45, line 3, and page 63, line 7 through page 67, line 25. Thus, no new matter is added by these amendments and entry is respectfully requested.

Claims 1-16 have been subjected to a Restriction Requirement as follows:

Group I, claim 1 (in part) drawn to nucleic acids, classified in class 536, subclass 23.1;

Group II, claims 1 (in part) and 2, drawn to polypeptides encoded by polynucleotides, classified in class 530, subclass 300;

Group III, claim 3-7 (in part), drawn to a polynucleotide-based method of cancer diagnostics, classified in class 435, subclass 6;

Group IV, claim 3-7 (in part), drawn to a peptide-based method of cancer diagnostics, classified in class 435, subclass 7.1;

Group V, claim 8 (in part), drawn to a polynucleotide-based method of identifying therapeutic agents, classified in class 435,

subclass 6;

Group VI, claim 8 (in part), drawn to a peptide-based method of identifying therapeutic agents, classified in class 435, subclass 7.1;

Group VII, claims 9 and 10, drawn to an antibody to a polypeptide, classified in class 530, subclass 388.1;

Group VIII, claims 9 and 10, drawn to a method of use of an antibody;

Group IX, claim 13 (in part), drawn to a method of cancer treatment using a compound that downregulates expression of a polynucleotide of Group I;

Group X, claim 13 (in part), drawn to a method of cancer treatment using a compound that downregulates activity of a polypeptide of Group II;

Group XI, claims 14 and 15, drawn to a method of inducing response using a polypeptide of Group II, classified in class 424, subclass 184.1; and

Group XII, claim 16, drawn to a vaccine, classified in class 424, subclass 240.1.

The Examiner suggests that the Groups are distinct, each from the other.

Specifically, with respect to Groups I and II, I and IV and II

and VII, the Examiner suggests that these are separate and distinct as being directed to different chemical types and/or different biochemical entities, namely polynucleotides for Group I, polypeptides for Group II, and antibodies for Group VII. The Examiner also suggests that the methods for use of polynucleotides (Groups III and V), polypeptides (Groups IV, VI and XI) and antibodies (VIII) are patentably distinct as they use different products. The Examiner has acknowledged Groups I and III and V and II and IV and VI and XI to be related as products and processes of use. However, the Examiner suggests that these are distinct because the products can be used in materially different processes.

With respect to Groups III and V, and IV, VI and XI, the Examiner suggests that these are independent methods.

With respect to Groups IX and X, the Examiner suggests that these groups are unrelated to methods of use of polynucleotides or polypeptides and patentably distinct from each other.

With respect to Groups XII and VII, the Examiner suggests that their claims are drawn to patentably distinct products which require differing characteristics.

Further, the Examiner suggests that each Group reads on a plurality of independent and/or patentably distinct sequences and has required election of a single amino acid or nucleic acid

sequence. In support of this restriction to a single sequence, the Examiner has cited MPEP § 803.04 as stating that nucleotide sequences encoding different proteins are structurally distinct chemical compounds and are unrelated to one another.

Applicants respectfully traverse this Restriction Requirement.

At the outset, it is respectfully pointed out that the claim numbers of Group VIII listed by the Examiner appear to be in error as claims 11 and 12, and not claims 9 and 10 as suggested by the Examiner in the Restriction Requirement, are drawn to a method of use of an antibody. Accordingly, clarification of the record is respectfully requested.

Further, MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all or most of the claims, at least when limited to elected nucleic acids, or polypeptides or antibodies, is overlapping and would not place an undue burden on the Examiner if the Restriction were not made.

Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

In addition, with respect to the Examiner's reliance on MPEP § 803.04 in support of the restriction to a single sequence, it is respectfully pointed out that with respect to the election of a single sequence, MPEP § 803.04 further states that "a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application". Accordingly, reconsideration and withdrawal of this sequence election requirement limiting Applicants to a single claimed sequence is also respectfully requested.

However, in an earnest effort to advance the prosecution of this case, Applicants elect Group VII, claims 9 and 10, drawn to antibodies with traverse.

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Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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